

**THE UNITED STATES AIR FORCE
STAFF SERGEANT (RET.)
OLEG YARIN**

*Pro Se Plaintiff and Crime Victim¹ of
Defendants Volkswagen AG, Schmidt, Liang, et. al*
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FILED

JUN 17 2019

SUSAN Y. SÒONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OLEG YARIN, *Pro Se*

Plaintiff,

v.

VOLKSWAGEN GROUP OF AMERICA, INC. *et al.*

Defendants.

ALSO RELATES TO:

IN RE: VOLKSWAGEN "CLEAN DIESEL"
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

16-cv-5756CRB
MDL No. 2672 CRB (JSC)
Hon. Charles R. Breyer

ACTS OF GOD DEMAND²

**GRACE AND HOLY WRATH OF
GOD DEMAND**

JURY TRIAL DEMAND

**OFFICIAL BUSINESS OF
LORD JESUS CHRIST**

**THE SUPREMELY AND GLORIOUSLY HONORABLE-IN-CHRIST PRO SE
PLAINTIFF AND CRIME VICTIM OLEG YARIN'S MOTION FOR ENTRY OF AN
ORDER REQUIRING DEFENDANT VOLKSWAGEN TO EXPLAIN THE
REPLACEMENT ENGINE'S NON-COMPLIANCE WITH EPA REGULATIONS AND
TO FORMALLY DISCLOSE EXISTENCE OF AN ILLEGAL DEFEAT DEVICE**

¹ The U.S. District Court for the Eastern District of Michigan, and specifically Judge Sean Cox, ruled that "Mr. Yarin is a crime victim of the Defendants charged in the Criminal Case [No. 16-cr-20394, U.S. v. Volkswagen.]"

² Through the prayers of the Most Holy Theotokos and Ever-Virgin Mary, Holy Right-Believing Prince Oleg of Bryansk, after whom this writer is named, Holy Great Martyr George the Victory-Bearer, all the Saints and Metropolitan Tikhon (Shevkunov).

Pro Se Plaintiff United States Air Force Staff Sergeant (Ret.) Oleg Yarin, a crime victim of Defendant Volkswagen AG, Bosch, Oliver Schmidt, James Liang, *et al.*, having properly asserted all of his rights under 18 U.S.C. § 3771(a) (1)-(10), proceeds on behalf of God the Holy Trinity, individually, on behalf of all crime victims similarly situated submits this motion and moves this Honorable Court to enter an Order Requiring Defendant Volkswagen to Explain Why the New Replacement Diesel Engine for This Plaintiff's and Crime Victim's Volkswagen Passat TDI is Not Compliant with the EPA Regulations and to Formally Disclose Existence of An Illegal Defeat Device. This court should also consider and construe this motion as motion to enter orders 1) lifting the stay, 2) compelling defendants' answers, and 3) requiring the Class Plaintiffs' Counsel (Cabraser) to release to this plaintiff and crime victim all "Clean Diesel" discovery.

This court "must accept as true all material allegations of the complaint and must construe the complaint in favor of the complaining party." *Warth v. Seldin*, 422 U.S. 490, 501 (1975). *See* Document 5374. This plaintiff and crime victim asserts all of his Constitutional rights.

Please note that Docket Entry No. 44 filed on August 16, 2018 was described only as a Notice. This description is insufficient. The document filed on August 16, 2018 was also a motion for Lifting of the Stay, Compelling Defendants' Answers and For Release to Oleg Yarin of all "Clean Diesel" Discovery. I request that Docket Entry No. 44 be properly described as a Motion. I do hereby notify this Court of ongoing and continuous violations of my constitutional rights to a jury trial, to free speech, the right to petition the government for redress of grievances and the right of people peaceably to assemble.

PRAYER FOR RELIEF TO GOD THE HOLY TRINITY

In the Name of the Father, the Son and the Holy Spirit!

Christ is risen! Indeed, He is risen!

Glory to Jesus Christ!

Again and again in peace let us pray to the Lord! Lord, have mercy!³

Dear God the Holy Trinity, through the prayers of the Most Holy Theotokos and Ever-Virgin Mary, all the Saints and Metropolitan Tikohn (Shevkunov), please plead this humble servant's cause for him in accord with Your Wisdom. *See the Proverbs, King Solomon. See also Dies Irae, Requiem, Johannes Chrysostomus Wolfgangus Theophilus Mozart. See also Paradise⁴, the infamous state of California, Lord, God, Savior, King of Kings, Judge of Judges Jesus Christ⁵.*

SUGGESTED READING

This Court should read the books of the Bible.

NOTICE OF ENGINE FAILURE AND OF ENGINE REPLACEMENT

This Plaintiff's and Crime Victim's 2013 Volkswagen Passat TDI automobile has been in a Lokey Volkswagen service department since May 2, 2019 because of extremely high rates of engine oil consumption. One Wednesday, June 5, 2019 service advisor Mr. Eric Northcraft informed me that the engine burned oil at a rate of 3 quarts per one thousand miles. Considering that the engine holds 5 quarts of oil total, the burning rate of 3 quarts of oil per one

³ See the Holy Liturgy of St. John Chrysostom.

⁴ Dies irae, dies illa solvet saeculum in favilla, teste David cum Sybilla. Translation: Day of wrath, that day will dissolve the earth in ashes as David and Sybil bear witness.

⁵Also the Father, Brother and Friend to this Plaintiff and Crime Victim. See The Homilies of St. Isaac the Syrian.

thousand miles is a catastrophic oil consumption rate. Mr. Northcraft has helped me deal with many pains and sorrows of owning a Volkswagen Passat TDI automobile. Mr. Northcraft informed me that my Volkswagen Passat needed a new diesel engine. It is my understanding that the new diesel engine was ordered and will be put in my car within the next two to three weeks. Mr. Northcraft informed me that the new engine will not be complaint with EPA. *See* Mr. Eric Northcraft's electronic message (Exhibit A.) Defendant Volkswagen must explain to me and to this Court why the new diesel engine would not be complaint with the EPA regulations and formally disclose to me, the consumer, the existence of an illegal defeat device in the new diesel engine.

THIS COURT'S RETARDATION OF THINKING AND RESPONSE

On Thursday May 16, 2019 this Court denied this plaintiff's and crime victim's Motion for Acceptance As True of the Seventh Amendment to the U.S. Constitution, filed on April 30, 2018. *See Docket Entry No. 38.* This motion was filed one full year ago. It should not have taken one full year or longer for this court or any other U.S. district court to accept the Seventh Amendment to the U.S. Constitution as True. It should have taken a reasonable person only fractions of a second to realize that the Seventh Amendment to the U.S. Constitution is, indeed, True. This court did not describe in its order the motions and relief sought in sufficient detail.

This Court denied this plaintiff's and crime victim's motion for Acceptance as true of Florida Deceptive and Unfair Trade Practices Act which was filed also on April 30, 2018. *See Docket Entry No. 39.* It should not take a reasonable person one full year or longer to realize that Florida Deceptive and Unfair Trade Practices Act is True and issue an appropriate response to

that effect. This court also denied motions 23, 24, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61 and 64.

As reason and basis for denial this court gave the following: “To the extent that Mr. Yarin’s motions are inconsistent with Pretrial Order No. 24, they are denied.” But this reason is clearly inadequate and inappropriate. The Pretrial Order No. 24 cannot and does not explicitly prohibit seeking, releasing or obtaining “Clean Diesel” discovery or seeking or obtaining Defendant Volkswagen *et al.* answers. To the extent of seeking “Clean Diesel” discovery and Defendant Volkswagen *et al.* answers this Plaintiff’s motions are consistent with the First and Seventh Amendments to the U.S. Constitution and Pretrial Order No. 24. Pretrial Order No. 24 does not discuss matters related to the truthfulness of the Seventh Amendment to the U.S. Constitution and the Florida Unfair and Deceptive Trade Practices Act. The Court did not describe the relief sought in sufficient detail and did not analyze the issues diligently and conscientiously. Why did not this Court precisely show and describe the extent my motions were inconsistent with Pretrial Order No. 24? I filed my motions prior to the entry of Pretrial Order No. 24. This court waited more than a year with respect to certain motions before issuing its denials. My motions at all times were consistent with the First and Seventh Amendments to the U.S. Constitution. And if this Court believes that my motions to at least some extent were consistent with Pretrial Order No. 24, then it should have granted the motions to that extent. And this court should have included the following language in its order: “To the extent Mr. Yarin’s motions are consistent with Pretrial Order No. 24 they are GRANTED.”

By not including this language this Court creates an appearance that my motions totally and completely are inconsistent with Pretrial Order No. 24. I view this outright denial tactic as an unfair and misleading.

AN OPTION TO BE EXCLUDED FROM SO-CALLED BELLWETHER TRIALS SHOULD BE GIVEN

This Court should give Plaintiffs an Option to be excluded from consideration for and participation in the so-called bellwether trials. Defendant Volkswagen has still not provided an answer to this plaintiff's complaint. The furnishing of an answer by Defendant Volkswagen to this Plaintiff's complaint would be an appropriate place to start.

A little more than a year ago this Court attempted to implement Intensive Settlement Process. The Court wanted this Plaintiff to engage in the Intensive Settlement Process without an answer from the Defendant Volkswagen. At this time this Court appears to be considering a Bellwether Trial Process. But this Bellwether Trial Process appears very similar to the Intensive Settlement Process in that this Plaintiff still does not have an answer from Defendant Volkswagen to his Complaint and the "Clean Diesel" Discovery. Does this Court have plans to turn this Bellwether Trial Process into another iteration of Intensive Settlement Process?

DAMAGE TO CONSCIENCE BY AN ILLEGAL DEFEAT DEVICE

At trial I would like to talk about the horrors an illegal defeat device presents to one's conscience. Conscience is very valuable. Undamaged conscience is important for obtaining jobs in national security, national defense, cybersecurity, counter-narcotics, intelligence and counterintelligence and a myriad of other career fields. The Department of Defense, NSA, DIA, FBI and other government agencies require a polygraph examination to obtain such jobs. An illegal defeat device is an obstacle to passing a polygraph examination and security interviews and, hence, it is an obstacle to obtaining jobs in the fields of national security, national defense, cybersecurity, counter-narcotics, intelligence and counterintelligence. Failure to pass a polygraph

examination means that a person cannot obtain or maintain a security clearance and obtain or maintain certain jobs in national security, national defense, cybersecurity, counter-narcotics, intelligence and counterintelligence, etc. This deprives a person of an ability to pursue dreams, put one's talents to good use and earn income. This also weakens national security and national defense. Therefore, it is important to declare at trial the sale of the Volkswagen Passat TDI sold to this plaintiff illegal and rescind the sale. If other Plaintiffs value their conscience and their ability to obtain and maintain a security clearance, they should speak up about it at trial. This Plaintiff's case shows the difficulty the Plaintiffs who care about their conscience and ability to maintain and obtain a security clearance must deal with.

The illegal defeat device, at the minimum, causes stress, muscle tension, which in turn affect blood pressure and disrupt health and well-being.

This court obviously wants the Defendant Volkswagen to choose and group cases based on their own criteria. But as a retired member of the U.S. Armed Forces this Plaintiff's duty is to pursue this case giving full consideration to the damage to conscience and ability to pass polygraph examinations the illegal defeat has done and can still do to one's conscience.

This Court opined about this Plaintiff and Crime Victim: "he is frustrated that to date he has not been able to obtain discovery or otherwise pursue his claims." To this I would add: "and an answer to his complaint." If that is how this Court perceives the issues, then why indeed does not this Court allow this Plaintiff to obtain discovery and otherwise pursue his claims?"

Apparently, this Court is frustrated with the Seventh Amendment to the U.S. Constitution.

Apparently, it is this Court that is frustrated by this Plaintiff and Crime Victim's efforts to prosecute his lawsuit v. Defendant Volkswagen Diligently. To put it simply, it is this Plaintiff's and

Crime Victim's duty to pursue his claims. It is my due diligence to prosecute this lawsuit.

Nobody else will do it for me.

Based on Pretrial Order No. 24 and Opt-Out Plaintiff Fact Sheet, it is obvious that this court consults with Defendant Volkswagen and develops a strategy. Apparently, this court approved the Opt-Out Plaintiff Fact Sheet. This Fact Sheet, in all likelihood, was prepared by Defendant Volkswagen's Counsel "Sullivan & Cromwell". But this court has not been consulting with this Plaintiff and Crime Victim. This Court should consult with this Plaintiff and Crime Victim. This court should have asked me for my opinion regarding the Bellwether Trial Process and whether I would like to participate in it. My opinion is that this court, in all likelihood, would attempt to turn the Bellwether Trial Process into another iteration of Intensive Settlement Process.

But I put my faith in God the Holy Trinity. I ask God for help. I ask God to see how this Plaintiff and Crime Victim has been treated and deprived of justice. God the Holy Trinity should help all the Plaintiffs whose conscience was damaged by the defeat device and for whom it created an obstacle for passing a polygraph examination, security interviews and obtaining certain jobs within national security, national defense, cybersecurity, counter-narcotics, intelligence and counterintelligence and a myriad other professions.

QUESTIONS 20 AND 21 ON THE OPT-OUT PLAINTIFF FACT SHEET

Questions No. 20 and 21 on the Opt-Out Plaintiff Fact Sheet are:

1. Have you been convicted of a felony within the last ten (10) years?
2. If yes, please identify the charge for which you were convicted, the court where you were convicted, the criminal action number assigned to the case, and the sentence imposed.

The Defendant Volkswagen should furnish to this Plaintiff, other Plaintiffs and this Court responses to these two questions. This Court should order Defendant Volkswagen to furnish responses to these questions because it is right and because it is fair. The District Court for the Eastern district of Michigan has ruled that “Mr. Yarin is a crime victim of Defendants charged in the Criminal Case [No. 16-cr-20394].” This is the “Clean Diesel” emissions case. The Defendants in this case are Volkswagen AG, James Robert Liang, Oliver Schmidt, Martin Winterkorn *et al.* This Court, however, denied my Motion for Acceptance as True of this ruling of the U.S. District Court for the Eastern District of Michigan. It is imperative the Defendant Volkswagen admit that it was adjudicated guilty of criminal offenses in that case.

This Court should order Defendant Volkswagen to provide responses to Fact Sheets from Plaintiffs in “Clean Diesel” litigation. But first and foremost, this Court must order Defendant Volkswagen to provide an answer to this Plaintiff’s complaint.

**RESPONSE TO LETTER FORWARDED FROM JUDGE HAMILTON IS
LONG OVERDUE**

I have previously provided to this court a copy of a response from Chief Judge Phyllis J. Hamilton dated October 29, 2018. Judge Hamilton’s response is not substantive but it states: “Your documents will be forwarded to the attention of Judge Breyer.” I request that this court, and specifically Judge Breyer, respond to my letter to Chief Judge Phyllis J. Hamilton.

Due to its neglect of the Seventh Amendment to the U.S. Constitution, this Court is allowing the Defendant Volkswagen to keep the illegal proceeds (unjust gains) from an unlawful sale to this plaintiff and crime victim of 2013 Volkswagen Passat TDI automobile equipped with an illegal defeat device. The offense (the sale) occurred in January 2013, more than six years ago. The people of this district and the State of California are still depriving this Plaintiff and Crime

Victim of the Constitutional rights to speak to a jury of my fellow Floridians and to the trial judge (Judge Merryday) in the Middle District of Florida, thereby violating the first, the seventh and the fourteenth amendments to the U.S. Constitution. “And if you have not been faithful in that which is another’s, who will give you that which is your own?” *Luke 16: 12, English Standard Version*.

The Complaint in this case was filed more than three years ago. At the time of filing a trial by jury was demanded. As of this writing, the record does not show that a trial has been held and a judgment entered. Today, almost three years later this court has yet to show the Defendant Volkswagen’s answer and the “Clean Diesel” discovery to this Plaintiff. This court must explain what happened to the trial by jury.

CONCLUSION

Based on the foregoing, I moves this Honorable Court to enter an Order Requiring Defendant Volkswagen to Explain Why the New Replacement Diesel Engine for This Plaintiff’s and Crime Victim’s Volkswagen Passat TDI is Not Compliant with the EPA Regulations and to Formally Disclose Existence of An Illegal Defeat Device. This court should also consider and construe this motion as a motion to enter orders: 1) lifting the stay, 2) compelling defendants’ answers, and 3) requiring the Class Plaintiffs’ Counsel (Cabrer) to release to this plaintiff and crime victim all “Clean Diesel” discovery. This court should also stop violating this plaintiff’s and crime victim’s rights protected by the First and Seventh Amendments to the U.S. Constitution. This court should stop depriving this *pro se* plaintiff and crime victim of the Constitutional right of trial by jury. So help you God!

I respectfully request a written response to this Motion.

I respectfully request that this court respond to me within 10 days of receipt of this motion.

I respectfully request a written rationale explaining this Honorable Court's reasoning.

I respectfully request that this Court order the Defendants Volkswagen and Bosch to respond to this instant motion.

Respectfully submitted by the Power of the Holy Spirit,

A handwritten signature in cursive script, appearing to read "Oleg Yarin".

The Supremely and Gloriously Honorable-in-Christ Holy Right-Believing Prince Oleg Yarin, SSgt, USAF (Ret.), a humble servant of my King, Lord, God and Savior Jesus Christ and the Adopted Son of the Most Holy Theotokos and Ever-Virgin Mary

By the Grace of God the Holy Trinity Assistant to Lord Jesus Christ on the matters of thieving, conniving and mutinous judiciary

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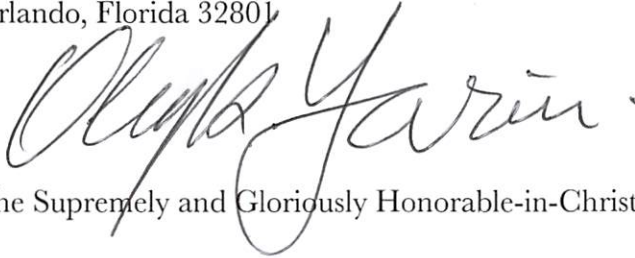
e-mail: olegyarin1@gmail.com

June 13, 2019.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served via first class mail on Defendant Volkswagen through its counsel Larry M. Roth, Esquire, at the following address:

Rumberger, Kirk & Caldwell
Lincoln Plaza, Suite 1400
300 South Orange Avenue
Orlando, Florida 32801

A handwritten signature in black ink, appearing to read "Oleg Yarin", is written over the printed name and title.

The Supremely and Gloriously Honorable-in-Christ Oleg Yarin, SSgt, USAF (Ret.)

June 13, 2019.

Attachment: Exhibit A: Electronic message from Lokey Volkswagen Service Advisor Mr. Northcraft

EXHIBIT A

EN

From: Eric Northcraft ENorthcraft@lokey.com
Subject: RE: EPA compliance of the new engine for my Passat TDI
Date: June 7, 2019 at 12:57 PM
To: Oleg Yarin olegyarin1@gmail.com

Good afternoon. The new engine will not be compliant with EPA. You will have to perform the TDI modification to be compliant. Once you perform the modification I can provide the new estimated MPG. The addblue interval will remain the same. I appreciate the compliments and will be here if vw has any questions. Thank you.

-----Original Message-----

From: Oleg Yarin <olegyarin1@gmail.com>
Sent: Friday, June 7, 2019 12:01 PM
To: Eric Northcraft <ENorthcraft@lokey.com>
Subject: EPA compliance of the new engine for my Passat TDI

Good afternoon, Eric,

Can you please tell me whether the new diesel Engine for my 2013 VW Passat will be fully compliant with the Environmental Protection Agency's Regulations and the provisions of the Clean Air Act.

Please also obtain from Volkswagen and provide to me the new engine's specifications and technical characteristics. For instance, what is the Miles per gallon diesel fuel usage on the Highway and in the city. How often will the Add Blue need to be added? Please also be advised that I submitted a claim to Volkswagen Legal Department for the remaining \$2,000 for the engine replacement and labor.

I posit that the engine had s manufacturing defect from the very beginning. And the problem was inherent in the engine and should have been detected and diagnosed sooner.

I asked VW to work specifically with you because you have helped me with many problems and sorrows I have had with my 2013 Passat TDI SEL.

I wrote to VW that Mr. Northcraft is a consummate professional and highly skilled and knowledgeable automotive technology expert.

God bless you!

Good luck!

Very respectfully,

Oleg Yarin, SSgt, USAF (Ret.)

Sent from my iPhone